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SUBJECT: GOG LOOKING TO KEEP CICIACS ALIVE

1. The Ambassador met with Guatemalan Transparency and Political Reform Commissioner Mario Fuentes-Destarc on August 20 to discuss the GOG's plans to revise CICIACS. The Constitutional Court's August 6 decision eliminated the possibility for an entirely independent CICIACS. Since that decision, Fuentes-Destarc, Vice President Eduardo Stein, and Attorney General Juan Luis Florido have developed a new vision: a &super-unit8 within the Public Ministry, led by a civil society nominee and possibly staffed by international experts. Though the Executive is still hammering out the details, Fuentes-Destarc described to the Ambassador an organization that would still have the power to effectively investigate organized crime and clandestine groups but also observe the confines of the Court's decision. Fuentes-Destarc assured the Ambassador that such an organization, functioning within the Public Ministry, would be able to solicit judicial orders for wire-taps (a tool that the UN and other international representatives believe is key to successful investigation of organized crime).

2. Fuentes-Destarc also discussed the Cabinet's current efforts to broaden the definition of conspiracy charges and strengthen the penal code on such crimes in observance of the Palermo Protocol on Organized Crime. The Executive hoped to present proposed legislation to the Congress during the first week of September.

3. Earlier in the week, the Ambassador met with three representatives from the Coalition for CICIACS: Helen Mack, Claudia Samayoa, and Orlando Blanco. At that time (and to date), the CICIACS Coalition had not yet met with the GOG to review possibilities for reform to the agreement. Members were discouraged by the Court's decision. The human rights defenders proposed discontinuing the fight for CICIACS and working directly with the UN High Commission of Human Rights (which has signed an agreement with the GOG to open a office locally) to develop benchmarks for public institutions, guided by the Palermo Protocols. Though the Ambassador agreed with the premise of the benchmarks, he also urged the group to first analyze the government's proposal before leaving CICIACS behind.

4. Comment: Civil society and international consultants designed CICIACS with the capability to work independently of the Public Ministry in a large part due to lack of confidence in former Attorney General Carlos de Leon. The appointment of better-esteemed Juan Luis Florido changed the equation, and a CICIACS-type institution could now more effectively function within the Public Ministry. Civil society remains disheartened, but the GOG is strategizing on alternatives to the original CICIACS agreement and should be allowed time to formulate a proposal. The GOG will approach civil society and the United Nations after developing a new strategy.

HAMILTON